



Mayor & Council of Berlin

10 William Street, Berlin, Maryland 21811

Phone 410-641-2770 Fax 410-641-2316

www.berlinmd.gov



Mayor

Wm. Gee Williams, III

Vice President

Elroy Brittingham, Sr.

Council Members

Dean Burrell, Sr.

Lisa Hall

Paula Lynch

Troy Purnell

Town Attorney

David Gaskill

Town Administrator

Anthony J. Carson, Jr.

BERLIN, MARYLAND

MAYOR AND COUNCIL MEETING

MONDAY, JANUARY 24, 2011

**COUNCIL CHAMBERS – BERLIN TOWN HALL
10 WILLIAM STREET
BERLIN, MD 21811**

EXECUTIVE SESSION6:00 PM

REGULAR SESSION7:00 PM

Anyone having questions about the meetings mentioned above or needing special accommodations should contact Tony Carson, Town Administrator at (410) 641-4144

TTY users dial 7-1-1 in the State of Maryland

TTY users outside Maryland dial 1-800-735-2258

**BERLIN MAYOR AND COUNCIL
COUNCIL MEETING
AGENDA
Monday, January 24, 2011**

6:00 PM EXECUTIVE SESSION - Berlin Conference Room

7:00 PM REGULAR SESSION – Berlin Town Hall Council Chambers

1. Approval of the Minutes for:
 Executive Session of the Mayor and Council on January 10, 2011
 Regular Session of the Mayor and Council on January 10, 2011
2. Public Hearing – Ordinance 2011-01
 An ordinance authorizing and empowering the Mayor and Council to issue and sell one or more series of general obligation bonds in an aggregate principal amount not to exceed \$10,000,000.00 for the purpose of financing, reimbursing or refinancing all or a portion of the cost of one or more activities relating to the project referred to as the "Effluent Storage and Irrigation System Project".
3. Acceptance and Approval of Section 3 Plan
4. Presentation to Mayor and Council
 Worcester Youth and Family Counseling
5. Departmental Reports
 - a. Finance
 - b. Deputy Town Administrator
 - c. Public Works
 - d. Water Resources
 - e. Electric
 - f. Police
 - g. Planning and Zoning
 - h. Human Resources
 - i. Economic and Community Development
6. Town Administrator's Report
7. Comments from the Mayor
8. Comments from the Council
9. Comments from the Public
10. Comments from the Press
11. Adjournment

MAYOR AND COUNCIL OF BERLIN, MARYLAND
Regular Session Council Minutes
Monday, January 10, 2011

The meeting of the Mayor and Council for Monday, January 10, 2011 was called to order by Mayor Williams at approximately 7:01 p.m. Council Members Lynch, Purnell, Brittingham, Burrell and Hall were present, as well as Town Administrator Tony Carson, Town Attorney David Gaskill, Director of Community and Economic Development Michael Day, Finance Director Lynn Musgrave, Water Resources Director Jane Kreiter, Administrative Assistant Sharon Timmons, Public Works Director Mike Gibbons, Electric Utility Director Tim Lawrence, Planning and Zoning Director Chuck Ward, Police Chief Arnold Downing and Human Resources Director Jeff Fleetwood. Deputy Town Administrator Mary Bohlen was absent.

Following the recitation of the Lord's Prayer and the Pledge of Allegiance, Mayor Williams asked for approval of the Joint meeting minutes of December 8, 2010. Councilmember Brittingham made a motion to approve the minutes and council voted unanimously to approve 5-0. Mayor Williams asked for approval of the Regular Session Minutes of December 13, 2010. Councilmember Hall made a motion to approve the minutes and council voted unanimously to approve 5-0. Mayor Williams asked for approval of the Executive Minutes of December 8, 2010. Councilmember Hall made a motion to approve the minutes and council voted to approve 4-0 with Councilmember Purnell abstaining. Mayor Williams stated that the Executive Session was closed to discuss the acquisition of real property for a public purpose and a personnel matter.

A request was made by the American Legion Post 123 for a Special Sunday Permit for a Super Bowl Party to be held on Sunday, February 6th, 2011. Councilmember Brittingham made a motion to approve the request and council voted unanimously to approve 5-0.

Mayor Williams requested the council to consider his recommendations to reappoint Lynn Kelly and Mary Moore to the Housing Board of Review, elevate Rick Stack from alternate to regular member on the Historic District Commission and appoint Joel Todd as an alternate to the Historic District Commission. Discussion continued on the duties of the Housing Board of Review. Councilmember Burrell made a motion to approve the recommendations and council voted unanimously to approve 5-0.

Mayor Williams announced the actions to be considered regarding the Berlin Electric Utility. The first would be the submission of an application to PJM for membership and the second would be the process regarding the purchase power agreement. Mayor Williams stated that he was very optimistic that a new contract would produce rates more in line with what other towns are paying.

Erik Quisgard, Chairman of the Berlin Utility Commission came before the council and stated that the recommendation from the BUC was to move forward with CES (Customized Energy Solutions) for a standard Request for Proposal process and guidance rather than join PJM. He stated that the BUC wanted to wait on full participation in the PJM membership until the Town received a recommendation from CES. Mr. Quisgard then stated that the BUC was supportive of a membership with PJM. Mayor Williams stated that the Town could file a new rate case with the Public Service Commission after a power agreement was in place to lower the rates on residential and commercial accounts.

Electric consultant Dwight Davis from Booth and Associates stated that the purpose was to bring residential rates down compared to others and the Town currently has been hurt by the fixed price contract because power prices have gone down. He stated that the Public Service Commission had told the Town at the annual PCA hearing that they would be held to a higher standard and to focus on the reasonability of power supply costs and an open process for competitive rates. Mr. Davis said that there were 3 objectives: (1) achieve reliable power supply at competitive rates; (2) address the PSC's concerns about power cost; (3) position the Town to deal with changes in the power supply market. Mr. Davis recommended that the Town work with APPI/World Energy instead of CES regarding the solicitation process. He continued in stating that the costs would be more, but that APPI/World Energy is recognized by MD and DE and has established credibility with the Maryland Public

Service Commission and helps facilitate current and future power transactions. Mr. Davis stated that the first year fee range would be \$60-65 thousand.

Mayor Williams spoke regarding CES being a second set of eyes regarding PJM activities, evaluating the PJM power market and assisting with administration and technical services for auction support with a fee not to exceed \$10,000.00. He stated that the council would need to decide on the following issues: (1) PJM Membership; (2) Avenues to purchase regarding purchase power; and (3) Assistance of CES. Councilmember Burrell made a motion to submit the PJM application and council voted unanimously to approve 5-0. Councilmember Lynch made a motion to pursue the reserve auction process with APPI per Booth's recommendation and council voted unanimously 5-0 to approve. Councilmember Brittingham made a motion to request a proposal from CES for administrative services for PJM, report to meetings and provide assistance and recommendations regarding the purchase power agreement process. Council voted unanimously 5-0 to approve.

Mr. Jonathan Triandafilou, representing Schuster Properties came before the council requesting a 60 day extension of EDU Resolution 2009-10. Councilmember Purnell recused himself from the discussion and left the dias. Mr. Triandafilou stated that the project known as "The Cottages at Berlin" had received funding, but he was waiting for official written documentation from the State which he expected to receive by the end of January. Councilmember Lynch asked Mr. Triandafilou to resubmit the letter making the request with a date since the original letter did not contain one. Councilmember Burrell made a motion to approve the 60 day extension as of January 1st, 2011 and council voted 4-0 in favor with Councilmember Purnell abstaining. Councilmember Purnell returned to the dias.

Human Resources Director Jeff Fleetwood explained the amendments to be made to the Personnel Policy regarding wireless device usage and credit card usage. Changes being made to the wireless device portion will incorporate and comply with the new Maryland State law. Discussion continued. Councilmember Brittingham left the dias. Mr. Fleetwood continued explanation regarding credit card usage and limits. Councilmember Burrell inquired who enforces disciplinary action regarding the Town Administrator. Mr. Carson stated the Mayor. Councilmember Lynch asked to change the wording in Section 4.10 under Compliance from "may result" to "will result". Councilmember Burrell made a motion to approve both amendments to the personnel policy, change the words "may result" to "will result" and to add the provision under the compliance section that the Town Administrator answers to the Mayor regarding disciplinary action. Council voted 4-0 in favor of the amendments to the personnel policy with Councilmember Brittingham absent.

Ordinance 2011-01, an ordinance authorizing and empowering the Mayor and Council to issue and sell one or more series of general obligation bonds in an aggregate principal amount not to exceed \$10,000,000.00 for the purpose of financing, reimbursing or refinancing all or a portion of the cost of one or more activities relating to the project referred to as the "Effluent Storage and Irrigation System Project" was introduced. Town Administrator Tony Carson explained that this ordinance is similar to the ordinance regarding bonds for the lagoon. Ms. Lindsey Radar, Bond Counsel from Funk and Bolton will be in attendance at the next meeting and will give a brief presentation. The public hearing will be held on January 24th, 2011. Councilmember Brittingham returned to the dias.

Departmental reports began with Finance Director Lynn Musgrave reported that due to the inclement weather, water readings were estimated and that electric readings were for 33 days. She stated that a new account had been created for stormwater review fees.

Public Works Director Mike Gibbons reported that there were no mechanical problems during the December snowstorm. He suggested that the residents of Washington, Burley and Graham streets be asked to move their cars from the street during inclement weather to enable the snow plows to assess the areas for snow removal. Town Administrator Carson stated that letters would be sent out to the residents. Councilmember Burrell requested that Mr. Gibbons examine a hole on the corner of Branch and Showell streets.

Water Resources Director Jane Kreiter explained the reasoning for a placard to be placed on the storm drains throughout town. Councilmember Purnell made a motion to approve affixing the stickers and council voted unanimously to approve 5-0. Ms. Kreiter continued in reporting that CDBG had inspected the repair work done on the lagoon and that they were very pleased. She stated that the Town would be submitting the final MDE application for the new spray site this week.

Electric Utility Director Tim Lawrence reported that the snow storm had extended the meter readings by one day and explained the cause for the power outage on December 30th. He requested that Deputy Town Administrator Mary Bohlen put a request in the next community newsletter asking residents to turn off the breakers to their major appliances during power outages to avoid in rush current surges when the electric is restored. Councilmember Brittingham thanked Mr. Lawrence for his updates during the power outage.

Police Chief Arnold Downing reported that William Street would be closed from 9 a.m. to 12 noon from Pitts to Bay to allow for façade repairs to be completed at Goobers. Chief Downing stated that his officers would be knocking on doors regarding vehicle removal at the next inclement weather event.

Planning and Zoning Director Chuck Ward expanded on his explanation of the Housing Board of Review stating that the commission was for appeal processes regarding property maintenance codes and existing housing standards.

Human Resources Director Jeff Fleetwood reported that the audit on the personnel files had been completed and that he was beginning work on the corrective action processes and compiling data for the benefits renewals. Discussion continued regarding comp time for department heads. Mr. Carson stated that department heads are exempt and do not receive comp time.

Economic and Community Development Director Michael Day reported on the upcoming meetings he would be attending. He thanked all persons involved with the New Years Eve event. He continued by announcing that the Town would be receiving an award for the 2010 Event of the Year at the Lower Eastern Shore Heritage Council's annual meeting to be held at the Carousel on January 21st.

Town Administrator Tony Carson acknowledged Public Works Director Mike Gibbons and the Water and Wastewater departments for their extended assistance during the snow storm over Christmas. He continued acknowledgements by recognizing Tim Lawrence for his updated reports during the power outage on December 30th. He then presented 7 purchase orders (20110601, 20110610, 20110612, 20110670, 20110719, 20110424 and 20110724) for approval. This report will be included as part of the minutes. Discussion followed regarding PO# 20110719 for the salt spreader. Councilmember Hall questioned the elevated salt levels which come from the runoff and how that would impact our waters. Mr. Carson stated that the public works department only salts the intersections. Discussion continued on the use of salt during snow storms. Mayor Williams requested that Mr. Gibbons consult with State Highway on guidelines for salt use. Councilmember Lynch questioned the billing from Seidel, Baker & Tilghman on PO# 20110670. Hourly billing should have been at \$145.00 per hour. Mr. Carson stated that the purchase order would be revised to reflect the billing rate of \$145.00 and send a cover letter with the explanation of payment. Councilmember Purnell made a motion to approve all purchase orders with the change to PO# 20110670 for the contracted price and council voted unanimously to approve 5-0.

Mayor Williams asked for comments from the council Councilmember Lynch questioned the new laws concerning traffic citations. Councilmember Purnell reported that the speed board located on Broad Street was not working. Police Chief Downing stated that the intense cold puts an added strain on the batteries. Councilmember Purnell asked for the police to shoot radar on Main Street Extended, Broad Street and Buckingham Street. Councilmember Burrell requested that he be forwarded the police radar reports. Councilmember Lynch inquired about sludge transportation.

Mayor Williams asked for questions from the public. A resident from Branch Street asked for assistance concerning ice on Branch Street and in the Berlin Intermediate School area. Another resident inquired about the smell in the area of Cheers. Ms. Kreiter stated that one of the farms was spreading.

There being no additional comments or questions from the public or the press, Councilmember Burrell made a motion to adjourn and the meeting ended at 9:40 p.m.

Respectfully submitted,

Sharon Timmons
Administrative Assistant

ORDINANCE NO. 2011-01

AN ORDINANCE OF THE COUNCIL OF THE MAYOR AND COUNCIL OF BERLIN TO AUTHORIZE AND EMPOWER MAYOR AND COUNCIL OF BERLIN (THE "TOWN") TO ISSUE AND SELL FROM TIME TO TIME, UPON ITS FULL FAITH AND CREDIT, ONE OR MORE SERIES OF GENERAL OBLIGATION BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$10,000,000.00, EACH SERIES OF BONDS TO BE ISSUED AND SOLD FOR THE PUBLIC PURPOSE OF FINANCING, REIMBURSING OR REFINANCING ALL OR A PORTION OF THE COST OF ONE OR MORE ACTIVITIES RELATING TO UPGRADING THE TOWN'S WASTEWATER TREATMENT SYSTEM BY UNDERTAKING A PROJECT REFERRED TO AS THE "EFFLUENT STORAGE AND IRRIGATION SYSTEM PROJECT", WHICH INCLUDES, WITHOUT LIMITATION, ACQUIRING CERTAIN PROPERTY, EXTENDING A LINE OR LINES FROM AN EXISTING SPRAY SITE TO THE NEW PROPERTY, CONSTRUCTING AND EQUIPPING A SPRAY IRRIGATION AND DISPOSAL SYSTEM ON SUCH NEW PROPERTY, AND UNDERTAKING RELATED ACTIVITIES, TOGETHER WITH THE ACQUISITION OF NECESSARY PROPERTY RIGHTS AND EQUIPMENT, RELATED SITE AND UTILITY IMPROVEMENTS AND RELATED PLANNING, DESIGN, ENGINEERING, CONSTRUCTION, INSTALLATION, IMPROVEMENT, EQUIPPING, FINANCIAL, AND LEGAL EXPENSES AND COSTS OF ISSUANCE AND, IF THE COUNCIL SO DETERMINES BY RESOLUTION, INTEREST DURING CONSTRUCTION AND FOR A REASONABLE PERIOD THEREAFTER; DETERMINING THAT ANY SUCH SERIES OF BONDS BE SOLD AT A PRIVATE NEGOTIATED SALE AND NOT AT PUBLIC SALE, UNLESS OTHERWISE PROVIDED IN A RESOLUTION; AUTHORIZING THE ADOPTION OF A RESOLUTION OR RESOLUTIONS TO DETERMINE AND PROVIDE FOR VARIOUS MATTERS RELATING TO THE AUTHORIZATION, SALE, SECURITY, ISSUANCE, DELIVERY, PAYMENT AND PREPAYMENT OF AND FOR ANY SERIES OF BONDS; AUTHORIZING THE ISSUANCE AND SALE FROM TIME TO TIME OF ONE OR MORE SERIES OF GENERAL OBLIGATION BOND ANTICIPATION NOTES IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$10,000,000.00, PRIOR TO AND IN ANTICIPATION OF ANY SERIES OF BONDS, IN ORDER TO FINANCE PROJECT COSTS ON AN INTERIM BASIS AND TO PAY RELATED COSTS, INCLUDING ISSUANCE COSTS AND CAPITALIZED INTEREST; AUTHORIZING THE ISSUANCE AND SALE FROM TIME TO TIME OF ONE OR MORE SERIES OF GENERAL OBLIGATION BONDS IN ORDER TO REFUND ANY BONDS ISSUED PURSUANT TO THE AUTHORITY OF THIS ORDINANCE AND TO PAY RELATED COSTS, INCLUDING ISSUANCE COSTS AND FUNDED INTEREST, PROVIDED THAT, THE AGGREGATE PRINCIPAL AMOUNT OF ANY SUCH ISSUE OF REFUNDING BONDS MAY NOT EXCEED 130% OF THE AGGREGATE PRINCIPAL AMOUNT OF THE BONDS REFUNDED THEREFROM; PROVIDING THAT ANY SUCH SERIES OF BOND ANTICIPATION NOTES OR REFUNDING BONDS SHALL BE SOLD BY NEGOTIATION AT PRIVATE SALE UNLESS OTHERWISE PROVIDED BY RESOLUTION AND AUTHORIZING THE ADOPTION OF A RESOLUTION OR RESOLUTIONS TO MAKE ANY FURTHER DETERMINATIONS DEEMED NECESSARY OR DESIRABLE IN CONNECTION WITH THE ISSUANCE OF ANY SUCH SERIES OF BOND ANTICIPATION NOTES OR REFUNDING BONDS; PROVIDING THAT DEBT SERVICE ON ANY SUCH SERIES OF

Underlining : Indicates material added by amendment after introduction
~~Strike through~~ : Indicates material deleted by amendment after introduction

BONDS, BOND ANTICIPATION NOTES OR REFUNDING BONDS WILL BE PAYABLE IN THE FIRST INSTANCE FROM WASTEWATER SYSTEM REVENUES AND, IF REQUIRED BY ANY APPLICABLE LENDER, FROM WATER SUPPLY SYSTEM REVENUES, TO THE EXTENT SUCH REVENUES ARE LAWFULLY AVAILABLE FOR SUCH PURPOSE; PLEDGING THE FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER OF THE TOWN TO THE PROMPT PAYMENT OF THE PRINCIPAL OF AND INTEREST ON ANY SUCH SERIES OF OBLIGATIONS; PROVIDING FOR THE LEVY OF AD VALOREM TAXES UPON ALL REAL AND PERSONAL PROPERTY WITHIN THE TOWN'S CORPORATE LIMITS SUBJECT TO ASSESSMENT FOR UNLIMITED MUNICIPAL TAXATION TO PAY THE PRINCIPAL OF AND INTEREST ON ANY SUCH SERIES OF OBLIGATIONS IN EACH FISCAL YEAR, SUBJECT TO REDUCTION TO THE EXTENT OTHER REVENUES OR FUNDS ARE AVAILABLE FOR SUCH PURPOSE; PROVIDING THAT THE PRINCIPAL OF AND INTEREST ON ANY SUCH SERIES OF OBLIGATIONS ALSO MAY BE PAID FROM ANY OTHER SOURCES OF REVENUE LAWFULLY AVAILABLE TO THE TOWN FOR THAT PURPOSE; PROVIDING THAT ANY OF THE BONDS, THE BOND ANTICIPATION NOTES OR THE REFUNDING BONDS AUTHORIZED HEREBY MAY BE CONSOLIDATED WITH ANY BONDS, BOND ANTICIPATION NOTES AND/OR REFUNDING BONDS AUTHORIZED BY ONE OR MORE OTHER ORDINANCES OF THE COUNCIL AND ISSUED AS A SINGLE SERIES OF BONDS, BOND ANTICIPATION NOTES AND/OR REFUNDING BONDS; AUTHORIZING AND DIRECTING OFFICIALS AND EMPLOYEES OF THE TOWN TO TAKE ANY AND ALL ACTION NECESSARY TO COMPLETE AND CLOSE THE ISSUANCE, SALE AND DELIVERY OF ANY SUCH SERIES OF BONDS, BOND ANTICIPATION NOTES OR REFUNDING BONDS; AND OTHERWISE GENERALLY RELATING TO THE ISSUANCE, SALE, DELIVERY AND PAYMENT OF AND FOR ANY SUCH SERIES OF BONDS, BOND ANTICIPATION NOTES OR REFUNDING BONDS.

RECITALS .

WHEREAS, Mayor and Council of Berlin, a municipal corporation of the State of Maryland (the "Town"), is authorized and empowered by Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland, as replaced, supplemented or amended (the "Enabling Act"), and Sections C7-19, C7-19.1 and C7-21 of the Charter of the Town of Berlin, as published in Municipal Charters of Maryland, Volume 1, 2008 Replacement Edition, as replaced, supplemented or amended (the "Charter"), to borrow money for any proper public purpose and to evidence such borrowing by the issuance and sale of its general obligation bonds; and

WHEREAS, the Town has determined to upgrade the Town's wastewater treatment system by undertaking a project referred to as the "Effluent Storage and Irrigation System Project", which includes, without limitation, acquiring certain property, extending a line or lines from an existing spray site to the new property, constructing and equipping a spray irrigation and disposal system on such new property, and undertaking related activities, together with the acquisition of necessary property rights and equipment, related site and utility improvements and related planning, design, engineering, construction, installation, improvement, equipping, financial, and legal expenses, and has determined to borrow money for the public purpose of

Underlining : Indicates material added by amendment after introduction
~~Strike-through~~ : Indicates material deleted by amendment after introduction

financing, reimbursing or refinancing costs of such activities, costs of issuance and, if the Council so determines by resolution, interest during construction and for a reasonable period thereafter; and

WHEREAS, the United States Department of Agriculture, acting through Rural Development or the Rural Utilities Service, or any related department, division, agency or instrumentality (any such entity, "USDA"), has preliminarily indicated that it can loan the Town up to \$10,000,000.00 for project purposes; and

WHEREAS, the Town presently intends to borrow money needed for project purposes from USDA; and

WHEREAS, notwithstanding the Town's present expectation to borrow money from USDA, the Council, by a resolution or resolutions, may provide for the sale of any series of the bonds authorized hereby to any other purchaser or purchasers or to any combination of USDA and any other purchasers; and

WHEREAS, prior to issuing all or any portion of the bonds authorized hereby, the Town expects that it will need to obtain interim financing in order to finance project costs on a timely basis through the issuance of one or more series of its general obligation bond anticipation notes pursuant to the authority of Section 12 of Article 31 of the Annotated Code of Maryland, as replaced, supplemented or amended (the "Bond Anticipation Note Enabling Act"); and

WHEREAS, subsequent to the issuance of any series of bonds authorized hereby, the Town may desire to refund or advance refund all or a portion of such series of bonds pursuant to the authority of Section 24 of Article 31 of the Annotated Code of Maryland, as replaced, supplemented or amended (the "Refunding Act"); and

WHEREAS, it is intended that any series of bonds, bond anticipation notes or refunding bonds issued pursuant to the authority of this Ordinance and any other applicable law may be issued as one or more bonds or notes, as applicable, and any of such bonds or notes may be issued in the form of a draw-down and/or installment bond or note as provided herein, as applicable; and

WHEREAS, the Town has determined to pledge its full faith and credit and unlimited taxing power to the prompt payment of debt service on any series of bonds, bond anticipation notes or refunding bonds authorized hereby but the Town expects to pay the principal of and interest on any such series of bonds, bond anticipation notes or refunding bonds in the first instance from revenues received in connection with the operation of the wastewater system serving the Town, including fees for use of or connection to such system and, if required by any applicable lender, from revenues received in connection with the operation of the Town's water supply system, including fees for use of or connection to such system, all to the extent such revenues are lawfully available for such purpose; provided that, to the extent required by any applicable lender the Town may use proceeds of any bonds authorized hereby to pay debt service on any bond anticipation notes issued for project purposes, and the Town may apply proceeds of any refunding bonds

Underlining : Indicates material added by amendment after introduction
~~Strike-through~~ : Indicates material deleted by amendment after introduction

authorized hereby to pay debt service on any bonds issued pursuant to the authority of this Ordinance; and

WHEREAS, the Town has determined to issue any series of bonds, bond anticipation notes or refunding bonds authorized hereby in accordance with the terms and conditions provided for in a resolution or resolutions to be adopted by the Council pursuant to this Ordinance.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF MAYOR AND COUNCIL OF BERLIN that the Recitals to this Ordinance are deemed a substantive part of this Ordinance and are incorporated by reference herein. Capitalized terms used in Sections 2 through 16 of this Ordinance and not defined herein shall have the meanings given to such terms in the Recitals.

SECTION 2. BE IT FURTHER ORDAINED AND ENACTED that pursuant to the authority of the Enabling Act, the Charter and any other applicable law, the Town hereby determines to borrow money and incur indebtedness for the public purpose of financing, reimbursing or refinancing all or a portion of the cost of any one or more activities relating to upgrading the Town's wastewater treatment system by undertaking a project referred to as the "Effluent Storage and Irrigation System Project", which includes, without limitation, acquiring certain property, extending a line or lines from an existing spray site to the new property, constructing and equipping a spray irrigation and disposal system on such new property, and undertaking related activities, together with the acquisition of necessary property rights and equipment, related site and utility improvements and related planning, design, engineering, construction, installation, improvement, equipping, financial, and legal expenses and costs of issuance and, if the Council so determines by resolution, interest during construction and for a reasonable period thereafter (collectively, the "Project"). The total cost of the Project not otherwise payable from other sources, including (without limitation) any grants made to the Town by the United States Department of Agriculture, the Community Development Block Grant program or the Maryland Department of the Environment, is not expected to exceed Ten Million Dollars (\$10,000,000.00). Proceeds of the Bonds (as defined in Section 3) may be applied to prepay or pay principal, premium and/or interest on any BANs (as defined in Section 8) incurred by the Town for the Project, and any such expenditure shall be considered an expenditure for Project purposes.

SECTION 3. BE IT FURTHER ORDAINED AND ENACTED that to evidence the borrowing and indebtedness authorized in Section 2 of this Ordinance, the Town, acting pursuant to the authority of the Enabling Act, the Charter and any other applicable law, hereby determines to issue and sell from time to time, upon its full faith and credit, one or more series of its general obligation bonds in an aggregate principal amount not to exceed Ten Million Dollars (\$10,000,000.00) (individually, a "Bond" and, collectively, the "Bonds"). Each Bond shall be designated as the Council may determine in the Resolution (as defined in Section 7). Any such series may consist of one or more bonds and any bond may be issued in installment form and/or draw-down form.

SECTION 4. BE IT FURTHER ORDAINED AND ENACTED that pursuant to the authority of the Enabling Act, the Charter and any other applicable law, the Town hereby

Underlining : Indicates material added by amendment after introduction
~~Strike-through~~ : Indicates material deleted by amendment after introduction

determines to sell each series of the Bonds at a private negotiated sale and not at public sale due to the attractive loan program offered by USDA or, for any series of bonds sold to another purchaser, the ability to time the market, negotiate terms, and thereby achieve a beneficial interest rate or rates and other beneficial terms, unless, pursuant to the Resolution, the Council determines to sell any such series of the Bonds at public sale after solicitation of competitive bids upon determining that such a public sale is in the best interests of the Town.

SECTION 5. BE IT FURTHER ORDAINED AND ENACTED that pursuant to the authority of the Enabling Act, the Charter and any other applicable law, and subject to any limitations contained therein, the Town hereby determines and provides that each series of the Bonds shall be issued and sold for a price or prices as provided in the Resolution.

SECTION 6. BE IT FURTHER ORDAINED AND ENACTED that the proceeds of each series of the Bonds shall be used and applied by the Town exclusively and solely for the public purposes described in Section 2 of this Ordinance, unless a supplemental ordinance is enacted by the Council to provide for the use and application of such proceeds for some other proper public purpose authorized by the Enabling Act, the Charter or other applicable law.

SECTION 7. BE IT FURTHER ORDAINED AND ENACTED that pursuant to the authority of the Enabling Act, the Charter and this Ordinance, the Council, prior to the issuance, sale and delivery of any series of the Bonds, shall adopt a resolution or resolutions (individually or collectively, the "Resolution") specifying, prescribing, determining, providing for and approving such matters, details, forms (including, without limitation, the complete form of the Bonds of such series), documents or procedures as may be required by the Enabling Act, the Charter, other applicable law or this Ordinance or as the Council may deem appropriate for the authorization, sale, security, issuance, delivery, payment or prepayment of or for such series of the Bonds. The Resolution shall set forth, contain, determine or provide for the determination of, or approve or provide for the approval of, among other things, the designation of such series of the Bonds; the aggregate principal amount of such series of the Bonds; the denominations of such series of the Bonds; the maturity or maturities of such series of the Bonds; the principal installment or installments, or the method of determining the principal installment or installments, payable on such series of the Bonds; the rate or rates of interest, or the method of determining the rate or rates of interest, which may be fixed or variable, payable on such series of the Bonds; provisions relating to the prepayment of such series of the Bonds; any provisions allowing the registered owners of such series of the Bonds to put or cause the prepayment of such Bonds; the components of the Project on which proceeds of the Bonds of such series shall be expended; the procedures for the sale of such series of the Bonds at a private negotiated sale without advertisement or publication of notice of sale, unless the Resolution shall provide for the sale of such series of the Bonds by the solicitation of competitive bids at public sale, in which case the Resolution shall set forth the procedures for the solicitation of competitive bids at public sale (including any advertising or bidding requirements) and the award of such series of the Bonds to the successful bidder, if appropriate; and all other terms and conditions pursuant to which such series of the Bonds will be issued, sold and delivered. Pursuant to the Resolution, the Council may make any appropriate arrangements in the event any right of the registered owner of a Bond to put or cause the prepayment of such Bond at its option or any change in the interest rate of a Bond or other modification could lead to a reissuance of such

Bond for purposes of the Internal Revenue Code of 1986, as amended. The Resolution may provide for the payment by the Town to the applicable lender of (i) late fees and/or additional interest or penalties in appropriate circumstances and (ii) any ongoing fees or administrative costs. For any series of the Bonds sold to USDA, the Resolution may specify, prescribe, determine, approve or provide for any other matters, documents or security required by such lender for participation by the Town in its financing program. With respect to any series of the Bonds sold to a purchaser or purchasers other than USDA, the Council, pursuant to the Resolution, may authorize, approve or otherwise provide for (i) any commitment fee or similar fee and any other costs payable in connection with such series of the Bonds, and (ii) any other matters, agreements or documents necessary to enhance the marketability of or as security for any such series of the Bonds, including (without limitation) any credit enhancement, liquidity enhancement, ratings, continuing disclosure undertaking required to satisfy the requirements of Securities and Exchange Commission Rule 15c2-12 and disclosure documents or offering documents. With respect to any series of the Bonds sold to the Maryland Water Quality Financing Administration (the "Administration"), the Council, pursuant to the Resolution, may pledge any moneys that the Town is entitled to receive from the State of Maryland, including the Town's share of the State income tax, to secure its obligations under any loan agreement entered into with the Administration in order to satisfy the provisions of Section 9-1606(d) of the Environment Article of the Annotated Code of Maryland, as replaced, supplemented or amended. Any Resolution may specify, prescribe, determine, provide for and approve the details required by this Section 7 for more than one series of the Bonds.

SECTION 8. BE IT FURTHER ORDAINED AND ENACTED that (a) pursuant to the authority of the Bond Anticipation Note Enabling Act and other applicable law, the Town may issue and sell from time to time, upon its full faith and credit, one or more series of its general obligation bond anticipation notes (individually, a "BAN" and, collectively, the "BANs") in an aggregate principal amount not to exceed Ten Million Dollars (\$10,000,000.00) prior to and in anticipation of the sale of any series of the Bonds in order to finance or reimburse costs of the Project (including costs of issuance and, to the extent determined by the Council in a resolution, capitalized interest) on an interim basis. Any such series of the BANs may consist of one or more notes and any note may be issued in installment form and/or draw-down form. Prior to the issuance, sale and delivery of any series of the BANs, the Council shall adopt a resolution or resolutions pursuant to the authority of the Bond Anticipation Note Enabling Act, the Charter and this Ordinance authorizing such series of the BANs and containing, determining or providing for the determination of, and approving or providing for the approval of, such matters, details, forms, documents or procedures as may be authorized or required by applicable law, including (without limitation) the components of the Project on which proceeds of such series of the BANs shall be expended. Unless the Council determines otherwise in a resolution or resolutions providing for any series of the BANs, such series of the BANs may be sold by private negotiation, without advertisement or publication of notice of sale or solicitation of competitive bids. Any such sale on a negotiated basis is hereby determined to be in the public interest due to the ability to time the market, negotiate terms and thereby achieve a beneficial rate or rates and other beneficial terms by undertaking a private (negotiated) sale.

(b) As authorized by the Bond Anticipation Note Enabling Act, by resolution the Council may provide for the renewal of any series of the BANs at maturity with or without resale

Underlining : Indicates material added by amendment after introduction
~~Strike-through~~ : Indicates material deleted by amendment after introduction

and/or any amendments or modifications to such series of the BANS, together with any related documentation.

SECTION 9. BE IT FURTHER ORDAINED AND ENACTED that pursuant to the authority of the Refunding Act and other applicable law, the Town is hereby authorized and empowered to issue and sell from time to time, upon its full faith and credit, one or more series of general obligation bonds (individually, a "Refunding Bond" and, collectively, the "Refunding Bonds") for the purpose of refunding or advance refunding any of the Bonds issued pursuant to the authority of this Ordinance then outstanding, including the payment of any prepayment premium and any interest accrued or to accrue to the date of prepayment, purchase or maturity of the Bonds to be refunded, and paying costs and expenses in connection with the issuance, sale and delivery of such Refunding Bonds, and, to the extent determined by the Council in a resolution or resolutions, interest on such Refunding Bonds, for the public purpose of realizing savings to the Town in the aggregate cost of debt service on either a direct comparison or present value basis or in order to accomplish any debt restructuring that is permitted by applicable law; provided that, the aggregate principal amount of any such issue of Refunding Bonds may not exceed one hundred thirty percent (130%) of the aggregate principal amount of the Bonds refunded therefrom. Any such series of the Refunding Bonds may consist of one or more bonds and any bond may be issued in installment form and/or draw-down form. Prior to the issuance, sale and delivery of any series of the Refunding Bonds, the Council shall adopt a resolution or resolutions authorizing such series of the Refunding Bonds and containing, determining or providing for the determination of, and approving or providing for the approval of, such matters, details, forms, documents or procedures as may be authorized or required by applicable law. Unless the Council determines otherwise in a resolution providing for any series of the Refunding Bonds, such series of the Refunding Bonds shall be sold on a negotiated basis without solicitation of bids. Any such sale on a negotiated basis is hereby determined to be in the public interest due to the ability to time the market, negotiate terms and thereby achieve a beneficial rate or rates and other beneficial terms by undertaking a private (negotiated) sale.

SECTION 10. BE IT FURTHER ORDAINED AND ENACTED that the Council is hereby authorized, by a resolution or resolutions, to make any further determinations or approvals or provide for any matters or actions deemed necessary or desirable in connection with the issuance of any series of the BANS or the Refunding Bonds authorized hereby, including, without limitation, (i) any determination authorized by the Bond Anticipation Note Act or the Refunding Act, as applicable, (ii) to commit or provide for the commitment of the Town to pay to the purchaser or purchasers of any series of the BANS or the Refunding Bonds (A) any late fees and/or additional interest or penalties in appropriate circumstances and/or any ongoing fees or administrative costs, (B) any commitment fee or similar fee and any other costs in connection with such purchaser's or purchasers' agreement to purchase such series of the BANS or the Refunding Bonds and/or (C) any breakage compensation or other amount that may be determined to be due to such purchaser or purchasers in the event the Town fails to deliver such series of the BANS or the Refunding Bonds and, in connection therewith, to approve or provide for the approval of, and the execution and delivery of, any agreement relating to such payment or payments (which such agreement may, but shall not be required to be, contained within any purchase or similar agreement for such series of the BANS or the Refunding Bonds), and (iii) to provide for any credit enhancement, liquidity

Underlining : Indicates material added by amendment after introduction

~~Strike through~~ : Indicates material deleted by amendment after introduction

enhancement, ratings, disclosure or offering documents or continuing disclosure undertakings relating to such series of the BANs or the Refunding Bonds.

SECTION 11 BE IT FURTHER ORDAINED AND ENACTED that the Council may:

(a) determine by resolution whether any premium paid to the Town upon the sale of any series of the Bonds, the BANs or the Refunding Bonds authorized hereby (each, a series of the "Obligations") shall be applied to the costs for which such obligations are authorized to be issued or to the payment of debt service on such obligations;

(b) determine by resolution whether earnings derived from the investment of the proceeds of any series of the Obligations authorized hereby shall be applied to the purposes for which such obligations are issued or to the payment of debt service on such obligations or treated as general revenues of the Town and applied to general Town purposes; and

(c) by resolution may determine or provide for the making of any determinations deemed necessary or desirable in the event the Project and/or any series of the Obligations authorized hereby are subject to, or issued in accordance with, the provisions of the American Recovery and Reinvestment Act of 2009, as amended (the "ARRA"), or any legislation enacted by the U.S. Congress extending provisions of the ARRA or containing provisions similar to those contained in the ARRA.

SECTION 12. BE IT FURTHER ORDAINED AND ENACTED that (a) the full faith and credit and unlimited taxing power of the Town are hereby irrevocably pledged to the prompt payment of the principal of and interest on each series of the Obligations as and when the same are payable and to the levy and collection of the taxes hereinbelow described as and when such taxes may become necessary in order to provide sufficient funds to meet the debt service requirements of such series of the Obligations. The Town shall levy or cause to be levied, for each and every fiscal year during which each such series of the Obligations may be outstanding, ad valorem taxes upon all real and tangible personal property within its corporate limits subject to assessment for unlimited municipal taxation in rate and amount sufficient to provide for the payment, when due, of the principal of and interest on such series of the Obligations payable in each such fiscal year and, in the event the proceeds from the collection of the taxes so levied may prove inadequate for such purposes in any fiscal year, additional taxes shall be levied in the subsequent fiscal year to make up any deficiency. The Town hereby covenants with the registered owner of each Obligation to take any action that lawfully may be appropriate from time to time during the period that such Obligation remains outstanding and unpaid to provide the funds necessary to pay promptly the principal and interest due thereon.

(b) Notwithstanding the provisions of subsection (a) above, the principal of and interest on each series of the Obligations will be payable in the first instance from revenues received in connection with the operation of wastewater system, including for use of or connection to such system, and, to the extent required by any applicable lender, from revenues received in connection with the operation of the Town's water supply system, including for use of or connection to such system, all to the extent such revenues are lawfully available for such purpose. To the extent of any

Underlining : Indicates material added by amendment after introduction
~~Strike-through~~ : Indicates material deleted by amendment after introduction

such revenues received or receivable in any fiscal year, the taxes hereby required to be levied may be reduced proportionately.

(c) The foregoing provisions shall not be construed so as to prohibit the Town from paying the principal of and interest on any series of the Obligations from the proceeds of the sale of any other obligations of the Town (including, with respect to any BANs, from proceeds of any Bonds authorized hereby and, with respect to any Bonds, from proceeds of any Refunding Bonds authorized hereby) or from any other funds legally available for that purpose. Subject to any provisions of the Internal Revenue Code of 1986, as amended, and the regulations thereunder applicable to any series of the Obligations issued with the expectation that interest thereon shall be excludable from gross income of the holders thereof for federal income tax purposes, the Town may apply to the payment of the principal of or interest on each series of the Obligations any funds received by it from the State of Maryland or the United States of America, or any governmental agency or instrumentality, or from any other source, if the funds are granted or paid to the Town for the purpose of assisting the Town in accomplishing the type of project or projects which such series of the Obligations are issued to finance or refinance, and to the extent of any such funds received or receivable in any fiscal year, the taxes hereby required to be levied may be reduced proportionately.

SECTION 13. BE IT FURTHER ORDAINED AND ENACTED that by a resolution or resolutions, the Council may determine that any of the Bonds, the BANs or the Refunding Bonds authorized hereby may be consolidated with any bonds, bond anticipation notes and/or refunding bonds authorized by the Council and issued as a single series of bonds, bond anticipation notes and/or refunding bonds.

SECTION 14. BE IT FURTHER ORDAINED AND ENACTED that the Mayor, the Town Administrator, the Director of Finance and all other appropriate officials and employees of the Town are hereby authorized and directed to take any and all action necessary to complete and close the issuance, sale and delivery of any series of the Bonds, the BANs or the Refunding Bonds authorized hereby and to approve, execute and deliver all documents, certificates and instruments necessary or appropriate in connection therewith.

SECTION 15. BE IT FURTHER ORDAINED AND ENACTED that the title of this Ordinance shall be published in accordance with the provisions of Section C3-10 of the Charter.

SECTION 16. BE IT FURTHER ORDAINED AND ENACTED that this Ordinance shall become effective at the expiration of twenty (20) calendar days following approval by the Mayor or passage by the Council over the Mayor's veto, subject to the provisions of Section C3-12 of the Charter.

[CONTINUED ON NEXT PAGE]

INTRODUCED THIS _____ DAY OF _____, 2011.

PASSED _____ AS INTRODUCED _____ AS AMENDED [CHECK
APPLICABLE LINE] BY THE COUNCIL OF BERLIN BY A VOTE OF _____ (YEAS), _____
(NOS), _____ (ABSTENTIONS) THIS _____ DAY OF _____, 2011.

ANTHONY J. CARSON, JR.
TOWN ADMINISTRATOR

ELROY BRITTINGHAM, SR.
VICE PRESIDENT OF THE COUNCIL

APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2011:

WM. GEE WILLIAMS, III
MAYOR

EFFECTIVE THIS _____ DAY OF _____, 2011.

#13558;50016.013

Underlining : Indicates material added by amendment after introduction
~~Strike through~~ : Indicates material deleted by amendment after introduction



Mayor & Council of Berlin

10 William Street, Berlin, Maryland 21811

Phone 410-641-2770 Fax 410-641-2316

www.berlinmd.gov



TOWN OF BERLIN, MARYLAND COMMUNITY DEVELOPMENT BLOCK GRANT SECTION 3 PLAN

1. The Mayor and Council of the Town of Berlin, Maryland (Berlin) designates Worcester County as its Section 3 Business and Employment Project Area.
2. Berlin, its contractors, and designated third parties shall, in utilizing Maryland Community Development Block Grant (CDBG) funds, utilize businesses and lower income residents of Worcester County in carrying out all activities, to the greatest extent feasible.
3. In awarding contracts for construction, non-construction, materials, and supplies Berlin, its contractors, and designated third parties shall take the following steps to utilize businesses which are located in or owned in substantial part by persons residing in Worcester County are:
 - a. Berlin shall identify the contracts required to conduct the CDBG activities.
 - b. Berlin shall identify through various and appropriate sources including:
 - i. Local Newspaper(s) of General Circulationthe business concerns within Worcester County which are likely to provide construction contracts, non-construction contracts, materials, and services which will be utilized in the activities funded through the CDBG.
 - d. To the greatest extent feasible the identified business and any other project area business concerns shall be utilized in activities which are funded with CDBG.
4. Berlin and its contractors and subcontractors shall take the following steps to encourage the hiring of lower income persons residing in Worcester County:
 - a. Berlin, in consultation with its contractors (including design and engineering professionals) shall ascertain the types and number of positions for both trainees and employees which are likely to be used to conduct CDBG activities.
 - b. Berlin shall advertise through the following sources:
 - i. Local Newspaper(s) of General Circulation
 - ii. The Maryland Department of Laborthe availability of such positions with the information on how to apply.
 - c. Berlin, its contractors, and subcontractors shall be required to maintain a record of inquiries and applications by project area residents who respond to advertisements, and shall maintain a record of the status of such inquiries and applications.
 - d. To the greatest extent feasible, Berlin, its contractors, and subcontractors shall hire lower income project area residents in filling training and employment positions necessary for implementing activities funded by CDBG.

5. In order to document compliance with the above affirmative actions and Section 3 of the *Housing and Community Development Act of 1968*, Berlin shall keep, and obtain from its contractors and subcontractors, *Registers of Contractors, Subcontractors and Suppliers* and *Registers of Assigned Employees* for all activities funded by CDBG. Such listings shall be completed and shall be verified by site visits and employee interviews, crosschecking of payroll reports and invoices, and through audits if necessary.

This Section 3 Plan is hereby adopted by a vote of _____ for and _____ against, with _____ abstaining on this _____ day of _____, 20 ____.

Wm. Gee Williams, III, Mayor

WITNESS

TOWN ADMINISTRATOR'S REPORT
1-24-11

Purchase Orders

PO# 20110389 in the amount of \$1,190.00 to Mayor and Council of Hurlock for sludge disposal.

PO# 20110741 in the amount of \$1,485.28 to Worcester County Mosquito Control for spraying for 2010 season.

PO# 20110748 in the amount of \$4,300.00 to B&G Heating and Air for replacement of geothermal unit upstairs.

PO# 20110770 in the amount of \$1,724.00 to Wainwright's Tire Center for four tires for vehicle #33.

PO# 20110792 in the amount of \$3,163.70 to Thermal Devices for components for installation of new exhaust thermocouple system at Power Plant.

PO# 20110768 in the amount of \$3,200.00 to J&M Generator Service for labor for installation of new exhaust thermocouple system at Power Plant

PO# 20110842 in the amount of \$6,050.00 to Digital Ally for 2 digital cameras for Police department.

PO# 20110854 in the amount of \$3,209.69 to Cards Computers for 2 Optuflex systems, monitor and installation of work stations.

PO# 20110855 in the amount of 1,620.00 to Cross Match Technologies for livescan fingerprinting annual maintenance contract.

Updates